IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 21665 of 1999

Between:

APSRTC, rep. by its Deputy Manager (Works), Body Building Works, APSRTC, Miyapur, Ranga Reddy District.

..... PETITIONER

AND

M. Satyanarayana s/o. Venkata Swamy, E.No. 20419, Coach Builder (M), H.No. 1-1-287/11/13/A, Bapunagar, Chikkadapally, Hyderabad - 20

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pleased to issue a writ, order or direction more particularly in the nature of writ of Certiorari by calling for the records in I.D.No. 672 of 1993 dated 20.10.1998 published in G.O.RT.No. 837 dt. 5.05.1999 on the file of the Labour Court-III, Hyderabad and quash the award.

Counsel for the Petitioner: MR.V.T.M.PRASAD

Counsel for the Respondent: MR.G.VIDYASAGAR

The Court made the following :

O R D E R :

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Heard Sri V.T.M. Prasad, learned standing counsel appearing for the petitioner and Sri G.Vidya Sagar, the learned counsel appearing on behalf of the respondent herein.

The petitioner-corporation filed this Writ Petition, *inter alia,* seeking to assail the impugned award in I.D. No. 672 of 1993, dated 20.10.1998 on the file of the Labour Court-III, Hyderabad.

The brief facts necessary for disposal of this Writ Petition are that the respondent herein, who has been working with the petitioner-corporation, is an employee charged with assault in an incident which occurred on 08.05.1991 whereupon his services were sought to be removed after domestic enquiry, on which the respondent raised a dispute and sought reference under Section 2(A) (2) of the Industrial Disputes Act, 1947 and the same was taken up as I.D. No.672 of 1993. During the course of enquiry in the I.D., initially it was held that the domestic enquiry conducted by the Enquiry Officer is valid and the matter was taken up after marking documents filed on behalf of the petitioner herein as Exs. M1 to M99. On consideration of the submissions made and on perusal of the material documents, the Labour Court came to conclusion that the charge made against the respondent is proved, though not by direct evidence but by circumstantial evidence. However, by taking into consideration the petitioner's long service and also the fact that the incident occurred in the year 1991, the Labour Court held that the punishment of removal is not commensurate to the gravity of the charge and hence, directed reinstatement into service with continued service and other attendant benefits, but without back wages.

The learned standing counsel appearing on behalf of the petitioner submits that having regard to the finding arrived at by the Tribunal that charge is proved, it can not be said that removal is not commensurate and further, having regard to the allegation of assault, no indulgence need be shown.

Mr. G.Vidya Sagar, the learned counsel appearing on behalf of the respondent, sought to sustain the award on the ground that in fact, there is no direct evidence in melee when the incident occurred and therefore, the petitioner can not be mulcted with any such serious punishment.

Considering the submissions made and on perusal of the material, it is seen that having regard to the finding as arrived at in regard to the charge made against the respondent, this court would not venture to reappreciate or come to any different conclusion on the finding of fact. However, it is represented across the bar during the course of arguments that during pendency of this Writ Petition, the respondent has already retired having attained the age of superannuation. However, in view of the interim stay granted by this Court, he was not taken back into service. Especially taking into consideration the reasons given by Labour Court about the long service and also the long lapse of time, it would not proper to award such serious punishment, more so, in view of the facts and circumstances surrounding the very incident as such. There is no direct evidence against the respondent herein. Hence, I do not find any valid ground or justification to interfere with the award of the Tribunal. Hence, there are no merits in the Writ Petition.

The Writ Petition is, accordingly, dismissed. No costs. It is needless to mention that though the petitioner has not taken back into service, the entire period shall be taken as on duty.

(B.Prakash Rao, J.)

19.01.2005

DRK/CHVN

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1. The Presiding Officer, Labour Court III, Hyderabad.
2. The Deputy Manager (Works), Body Building Works, APSRTC, Miyapoor, R.R. District.
3. Two C.D. copies.